
**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

**445 12th St. NW
Washington, DC 20554**

In the Matter of:)	
)	
Acceleration of Broadband Deployment:)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

COMMENTS OF THE VILLAGE OF WILMETTE, ILLINOIS

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Pursuant to the Notice of Inquiry ("Notice") issued by the Federal Communications Commission ("Commission") on or about April 7, 2011 in the above-captioned proceedings before the Commission, the Village of Wilmette, Illinois, a home rule municipal corporation ("Wilmette"), respectfully submits the following comments. The purpose of this submission by Wilmette is twofold: (1) to provide the Commission with accurate information concerning the siting of personal wireless telecommunications facilities in Wilmette under its laws and ordinances; and (2) to correct the materially inaccurate and misleading comments submitted to the Commission by AT&T, Inc. ("AT&T") and by PCIA – The Wireless Infrastructure Association ("PCIA") to the Commission, concerning the zoning and regulatory conduct of Wilmette in regards to the siting of wireless telecommunications facilities in its community.

The principal argument in the AT&T and PCIA submissions to the Commission is that municipalities are an obstacle to deployment and that, therefore, the Commission should ignore basic principles of federalism and abrogate local zoning and land use processes. In doing so,

AT&T and PCIA both present as fact a description of local zoning in northeast Illinois, and in Wilmette in particular, that is a caricature of the actual processes that exist. The facts do not support the assertions made by either AT&T or PCIA that Wilmette's ordinances present an insurmountable obstacle to deployment of new wireless facilities.

In its Comments to the Commission, AT&T described Wilmette as falling into an ill-defined, "(L)arge portions of the Chicago area that are zoned for residential use – e.g., Wilmette, Winnetka, Highland Park, Lake Bluff, Evanston, and Glencoe – have local zoning rules that broadly restrict wireless installations, and any attempt to obtain a zoning variance is typically hopeless."¹ AT&T cites no evidence whatsoever in support of this wholly inaccurate and misleading assertion.

Similarly, in Exhibit B of PCIA's Comments to the Commission, PCIA describes Wilmette as requiring full zoning hearings for colocation on an existing tower, even though that statement is misleading and inaccurate as well.²

Since the adoption of the Telecommunications Act of 1996, Wilmette has repeatedly amended and updated its ordinances and zoning processes to both conform to the Act and to provide a clear and direct path for wireless telecommunications to install facilities. The zoning ordinance has been repeatedly liberalized to expand the scope and possible location of wireless facilities, including encouraging co-location, permitting use existing institutional structures and architectural features of all types in any zoning district.

Indeed, Wilmette has **never denied a single zoning application for a personal wireless facility since the adoption of the 1996 Act.** Even prior to the adoption of the 1996 Act, the Village had only denied one application, in 1994, due to the requestor (at the time, Ameritech

¹ Comments of AT&T, p. 9.

² Comments of PCIA, Ex. B, pp. 7-8, Table II.

Mobile Communications) asking to use a non-conforming, dilapidated smokestack instead of a monopole, and the dispute was settled by the requestor's demolition of the smokestack and construction of a monopole in an alternate location.

In point of fact, Wilmette, a municipality of only 5.4 square miles, has given zoning approval to **ten** (10) personal wireless telecommunications sites which, due to the colocation that is promoted and encouraged by the Village, collectively hold **eighteen** (18) wireless carriers' facilities, as shown in the table below:

Address	Property Type	Applicant & Co-Locators	Decision	ZBA Case
1215 Washington	Commercial	Cellular One	Granted	1990-Z-55
1200 Wilmette	Village	Verizon, AT&T, Sprint, T-Mobile, Cellular	Granted	1996-Z-59
711 Laramie	Village	Primeco (US Cellular); AT&T, Sprint	Granted	1996-Z-60
3232 Lake	Commercial	Primeco (US Cellular)	Granted	1998-Z-05
1200 Central	Commercial	Nextel	Granted	1999-Z-51
711 Laramie	Village	Voicestream Wireless	Granted	2001-Z-02
1200 Hibbard	Religious	Cingular (AT&T)	Granted	2003-Z-71
3620 Lake	Commercial	Site Acquisition Consultants	Granted	2004-Z-08
1625 Sheridan	Condominium	T Mobile	Granted	2007-Z-57
1929 Elmwood	Park District	T Mobile, US Cellular, Cricket	Granted	2008-Z-58

Other than the 1994 Ameritech application that was initially denied and later settled, the Village has never denied any wireless application. Notwithstanding AT&T's assertion that zoning approval in Wilmette is "hopeless," the above data demonstrates that AT&T has obtained zoning approval repeatedly from Wilmette. Wilmette has never denied an AT&T application. AT&T voluntarily withdrew a 2011 application before it could be acted upon by the Wilmette Village Board of Trustees, which has decision-making authority under the Zoning Ordinance,

due to the collapse of its relationship with its prospective landlord.³ This is beyond Wilmette's control.

From time to time wireless carriers and their agents have initiated zoning processes with Wilmette, only to later withdraw their applications due to their inability to agree to terms or leases with property owners. Those are circumstances wholly beyond Wilmette's control. It is neither Wilmette's nor the Commission's prerogative to create a private right of condemnation over private or public property for the benefit of a wireless carrier that finds it difficult to reach commercially reasonable terms with a prospective landlord. The value of any given parcel of property and a lease over it is an inherently site specific analysis, and local lease costs will necessarily vary considerably due to differences in the underlying value of land.

PCIA's assertions concerning the need for individual zoning review in Wilmette every time colocation is requested on an existing facility is simply nonsense. Whether or not a particular site requires an additional special use review under Wilmette's Zoning Ordinance depends on what the scope of the original special use approval was. For example, if a monopole is being constructed or an antenna mounting bracket is being added to an existing structure, the applicant is free to specify, and in fact is encourage to specify, how many colocators may be accommodated on the site. Thus, in 1996 when Ameritech Mobile (now Verizon) and PrimeCo (now US Cellular) were constructing new facilities on Wilmette's property, they heeded the advice of Wilmette staff and indicated in their zoning applications that the sites would hold up to a specified number of colocators at a future date. Having received zoning on that basis, no additional zoning application or approvals were required over subsequent years when new colocators were added to both sites.

³ Wilmette Zoning Board of Appeals Case No. 2011-Z-01, filed December 13, 2010 by Callahan Communication Services, Inc., on behalf of AT&T.

Over the more than 20 years in which Wilmette and its governmental staff have been reviewing requests for wireless telecommunications sites, our collective observations lead to a much different conclusion than that suggested by either AT&T or PCIA. In most instances, wireless providers are unable to obtain control over new sites or bring a zoning case to decision because of mismanagement of their relations with prospective landlords and their abdication of responsibility for site acquisition to third-parties who lack the necessary understanding of land use proceedings and how to represent a wireless provider in land use proceedings. Frequently, wireless providers have no personnel of their own present for public meetings on applications – only site acquisition companies who are unable to answer material questions or present the carrier’s case properly.

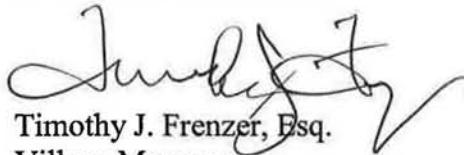
Wilmette recognizes the public demand for improved wireless services, as its own residents expect. Wilmette has invested considerable effort in crafting ordinances that respect the character of the community while accommodating the needs of wireless carriers. That balance is most effectively struck when the topography, existing development and existing uses of property are analyzed on a local level.

The Commission cannot and should not formulate national policy that has the potential to adversely impact Wilmette residents, as well as residents in all municipalities, on the basis of unsupported assertions by wireless carriers whose biggest obstacle to deployment is not local zoning, but their own inability to reach commercially reasonable terms with property owners or their own unwillingness adopt a more reasoned approach to how they obtain local land use approval. The Commission should be aware that municipalities like Wilmette receive no notice from AT&T or PCIA that they are being held up, falsely, as examples of barriers to providing wireless service. But for Wilmette having been advised by the International City/County

Management Association (ICMA) that it was a target of AT&T's and PCIA's Comments submitted to the Commission, Wilmette would have had no reason to suspect that it needed to file comments with the Commission in this proceeding to correct the record. Undoubtedly, many other municipalities are similarly situated.

The now ubiquitous availability of personal wireless voice and data service, particularly in Wilmette and northeast Illinois, is itself plain evidence of the fact that local government is not the barrier to service portrayed by either AT&T or PCIA. Wilmette's ordinances have been adapted since the Telecommunications Act of 1996 to recognize the public need for reliable and accessible wireless service, and the long list of wireless sites in Wilmette, with not a single application being denied by Wilmette since 1994, shows that the ordinances in Wilmette work. It is up to the Commission to recognize the equally important public interest in ensuring that new wireless sites do not adversely impact communities and individuals – which is what local ordinances protect against. Wireless carriers are entitled to reasonable treatment in light of the need to balance these two interests. They are not entitled to the cheapest process that elevates profit over public interest.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. Frenzer', with a stylized flourish extending from the end.

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PROOF OF SERVICE

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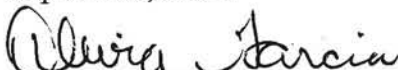
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I, Joann Pazen, certify that I served the foregoing Comments of the Village of Wilmette via electronic filing system available at <http://fjallfoss.fcc.gov/ecfs/> and further certify that I served the above-referenced parties via First Class Mail, with proper postage prepaid, by depositing the same in the U.S. mailbox located at 22 S. Washington, Park Ridge, Illinois before 5:00 p.m. on September 28, 2011.



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Subscribed and Sworn to
before me this 28th day of
September, 2011.



Notary Public

